

In the High Court for the States of Punjab and Haryana
At Chandigarh

I) CRM-M-34493-2023 (O&M)

Shamsher Singh @ Shera ... Petitioner

Versus

State of Punjab ...Respondent

II) CRM-M-49469-2023 (O&M)

Jawala Singh @ Sammu ... Petitioner

Versus

State of Punjab ... Respondent

Date of Decision:-24.1.2024

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ranjodh Singh Sidhu, Advocate for the petitioner(s).

Mr. Sanish Girdhar, AAG, Punjab,
assisted by ASI Lakhvir.

FIR No.	Dated	Police Station	Section/s
97	9.12.2021	City Zira, District Ferozepur	304, 201, 34 of Indian Penal Code, wherein offence under Section 302 IPC was deleted later on.

GURVINDER SINGH GILL, J. (Oral)

CRM-2883-2024 in CRM-M-34493-2023

In view of the reasons mentioned in the application, the same is
allowed and the copy of DNA report of deceased Onkar Singh annexed with

the application is taken on record as Annexure P-5 subject to all just exceptions.

CRM-M-34493-2023 & CRM-M-49469-2023 (Main Cases)

1. This order shall dispose of the above mentioned two petitions filed on behalf of petitioners Shamsher Singh @ Shera and Jawala Singh @ Sammu seeking grant of regular bail in respect of abovementioned FIR.
2. The FIR was lodged at the instance of Kuldeep Singh, wherein it is alleged that his brother-in-law Onkar Singh used to drive a Crane in Jodhpur (Rajasthan). However, since he had not returned back home, therefore, they made inquiries and came to know from Jodhpur (Rajasthan) that Onkar Singh had gone back home about two months back. Since Onkar Singh had not returned back home, they kept on searching for him. It is alleged that on 8.12.2021, when the complainant was having meals at a 'Dhaba' near Bus Stand Zira, then he overheard 2 persons, who were in inebriated state conversing with each other and saying that Onkar Singh had come to them on 29th October and had died because of overdose of intoxicant given by them and that they had disposed of the dead-body of Onkar Singh. It is further alleged that they were also saying that thankfully there was no clue about the same and that one of them was Shamsher Singh @ Shera and the other was Jawala Singh @ Sammu.
3. Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the present case solely on the basis of alleged conversation between the two accused stated to have been overheard by the complainant, wherein the accused are alleged to have admitted that Onkar Singh had died on account of the excessive intoxicants having been given by

them to him. Learned counsel submitted that such like evidence is hardly sufficient to hold that it is the petitioners, who had administered any intoxicant to the deceased. Learned counsel submitted that, even if, it is admitted that the petitioners had given some intoxicant to the deceased, there is nothing on record to suggest that the same had been given to him with an intention to cause his death.

4. Opposing the petitions, learned State counsel submitted that in the instant case, the dead-body of the deceased was got recovered at the instance of both the accused and the same having been recovered in the presence of a Duty Magistrate, the factum of recovery of dead-body at the instance of the petitioners cannot be doubted and which clearly reflects on the complicity of the accused. Learned State counsel has, however, informed that while the petitioner – Shamsheer Singh @ Shera (in CRM-M-34493-2023) has been behind bars since the last about 2 years, 1 month and 11 days and happens to be involved in 3 other cases registered for offences under Sections 379 and 380 of Indian Penal Code, petitioner – Jawala Singh @ Sammu (in CRM-M-49469-2023) has been behind bars since the last about 1 year, 9 months and 26 days and happens to be involved in another case for offence under Section 379 IPC and under Section NDPS Act. It has been informed that although charges have been framed, but till date none out of the cited 22 PWs has been examined.
5. This Court has considered rival submissions addressed before this Court.
6. It is not in dispute that there is no eye-witness to the alleged murder. The FIR is suggestive of the fact that the deceased had died on account of overdose of intoxicants. Even the medical evidence i.e. the post mortem report or opinion

of the doctor as regards his death is rather inconclusive regarding the cause of death. Both the petitioners have been behind bars for a substantial period of more than 1 year and 9 months. Conclusion of trial is likely to consume time inasmuch as none out of the cited 22 PWs has been examined so far. In these circumstances, further detention of the petitioner(s) will not serve any useful purpose. Both the petitions, as such, are accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7.
- A copy of this order be placed on the file of connected case.

24.1.2024
pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No